

**REGULAR MEETING OF THE CANTON CITY COUNCIL  
6:00 P.M., JUNE 21, 2016**

Canton City Hall  
290 E. Tyler, Canton, Texas 75103

**MINUTES**

The Canton City Council met at the above-named date and time in the City Municipal Courtroom. Members present were Mayor Lou Ann Everett and Councilmembers Cindy Malouf, Nathan Moore, Scott Perkins, and Shawn Stewart. Councilmember Connie Odic was absent.

Also present were City Manager Lonny Cluck, Assistant City Manager Andy Wolfe, City Secretary Debra Johnson, Public Works Director Walt Lehmann, Fire Chief Bud Sanford, Police Chief Brad Allison, Municipal Court Judge Lilia Durham, CEDC Executive Director Julie Seymore, and Assistant City Attorney David Ritter.

1. CALL TO ORDER - The meeting was called to order and a quorum was declared by Mayor Lou Ann Everett at 6:00 p.m.
2. INVOCATION was led by Andy Wolfe.
3. PLEDGE OF ALLEGIANCE was led by Mayor Lou Ann Everett.
4. MAYOR'S WELCOME
5. DECLARATIONS REGARDING CONFLICTS OF INTEREST - None
6. PROCLAMATIONS AND ANNOUNCEMENTS – Mayor Everett acknowledged a Certification of Appreciation from the City of Van for contributions by the City of Canton during the May 2015 tornado event. Mayor Everett showed cards received from Texas Skies Cub Scout Troop thanking her for visiting with them during the past month.

**CITIZENS FORUM**

7. CITIZENS FORUM – CITIZENS ARE INVITED TO SPEAK FOR THREE MINUTES ON MATTERS RELATING TO CITY GOVERNMENT THAT ARE NOT LISTED ON THE REGULAR AGENDA – Jim Fuller expressed concern about the ramps at the Civic Center. He had someone fall in that area and requested the City look into the matter. Some of the locks on the doors did not lock easily and the roof in the Civic Center leaked. He also wanted the City to make improvements to the landscaping.

**CONSENT AGENDA**

8. CONSIDER APPROVAL OF MINUTES OF THE MAY 2, 17, AND 23, 2016 CITY COUNCIL MEETINGS
9. CONSIDER APPROVAL OF MAY 2016 FINANCIAL STATEMENTS

Councilmember Stewart made a motion to approve Items 8 and 9 of the Consent Agenda. Council Moore seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

## INDIVIDUAL CONSIDERATION

10. PUBLIC HEARING AND CONSIDER ADOPTION OF ORDINANCE NO. 2016-13 CHANGING THE USES AND ATTRIBUTES OF THE FIRST MONDAY BUSINESS ZONING CLASSIFICATION IN 1985 ZONING ORDINANCE - *Mayor Everett opened the public hearing at 6:12 p.m.*

Reagan Sumner, 170 and 176 Trade Days Blvd., asked for clarification on what would happen to his business if the zoning was changed to allow operations during First Monday only. He allowed two vendors to set up in his pavilion throughout the month. Mr. Cluck said as long as Mr. Sumner continued to run his business the way he did now, he could sell the property and nothing would have to change. If there were no business operations on the property for a year, or if the property was substantially destroyed, it would change. The land use ran with the property not the owner. Mr. Cluck said that applied as long as the business currently on the property was legal as far as the current Zoning Ordinance. The business needed to stay retail. David Ritter said if there was a non-conforming use that was permitted under the old ordinance, the property owner would be grandfathered in as non-conforming unless the use of the property stopped for a year and there was substantial destruction. The property could be sold because the non-conforming use would run with the land, not the person. Councilmember Stewart suggested removing the second sentence under 13-2 of the proposed ordinance.

Mr. Cluck said the ordinance currently required 6 female restrooms per vendor acre and 3 male restrooms per vendor acre. The City currently had 111 women restrooms and 92 for men. Because the City had approximately 32 vendor acres, they were short 81 on the women's side and 4 on the men's. Debbie Davis thought the number for the women's restrooms should be reduced to 4. Councilmember Stewart said the restroom issue was not a problem twelve months out of the year. Councilmember Malouf said 3.4 would be the right number for what the City had now. Debbie Davis requested clarification on the proposed change to the ordinance. Her property had been there since 1994. Ms. Davis said every building on the Mountain was there when they were annexed except for the portable one. Some porches might have been added over the year. Mr. Cluck said when property was non-conforming, no changes were allowed. Ms. Davis said she had developed a new lease and was able to enforce the guidelines for the most part. She insisted the lessees got permits. It was critical to her cash flow to be able to operate during the month. Mr. Ritter said the zoning was fact specific to each building on the Mountain. Retail use was currently permitted by right and B&B's were permitted by specific use permit. Councilmember Stewart said Council was looking at the safety aspect as far as B&B's were concerned. Ms. Davis said she did have some retail shops open more than just during First Monday. David Ritter said if there was a building on the property running under a permitted use, they could continue doing so, but the buildings themselves or the use of the building could not be expanded. Mr. Ritter also said the RV park was never a legal use in First Monday zoning so it would not be grandfathered. Mr. Cluck said the City would look at each individual business, if requested. *Mayor Everett closed the public hearing at 7:22 p.m.*

The matter was referred back to the Planning & Zoning Commission to determine which items could be added to the list for specific use permits.

11. CITY MANAGEMENT REPORTS

- A. FIRST MONDAY – Linda Boston, First Monday Operations Supervisor, said First Monday held level for June. July reservations were normal. A rabbit show was held at the Civic Center recently.
- B. FINANCIAL REPORT – Kim Kroha reported First Monday revenue was up \$50,000 year to date. Sales tax revenue was up over the projected amount. The water and wastewater revenue and sanitation revenues were also more than last year's numbers.
- C. NEW BUILDING FOR POLICE DEPARTMENT – Andy Wolfe reported the building was purchased June 9. He should have a preliminary cost estimate by the end of the week. The building would house the police department and the municipal court.
- D. SUBSTANDARD BUILDINGS – Debra Johnson reported notices were sent to Church's Chicken. Citations would be issued approximately ten days after receipt. Mr. Ritter said it would be up to the jury or judge to assess the fine.
- E. UPDATE OF ELECTRICAL CODE – Mr. Cluck explained the State of Texas had adopted the 2014 Electrical Code. Everything built in the County would have to comply with that standard.
- F. OTHER ITEMS – Mr. Cluck said the City would be spraying for mosquitos. Ads were placed in the paper and notices had been given on the radio. The City had filed a claim for damage done to the Civic Center roof. The insurance company was sending an engineer out to review.

12. CONSIDER REQUEST FROM CANTON FIRE DEPARTMENT FOR SOLICITOR'S PERMITS TO COLLECT DONATIONS AT THE INTERSECTION OF BUFFALO AND DALLAS STREETS THE FIRST WEEKEND OF SEPTEMBER FOR MDA AND THE FIRST WEEKEND OF DECEMBER FOR THE CHRISTMAS FOR KIDS PROGRAM - Councilmember Stewart made a motion to grant the request from Canton Fire Department for the first weekend of September and the first weekend of December for the next five years. Councilmember Perkins seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

Mayor Everett called a brief recess at 7:52 p.m. Council reconvened at 7:57 p.m.

13. CONSIDER DRAFT LEASE AGREEMENT FOR PRIVATELY-OWNED BUILDINGS ON FIRST MONDAY GROUNDS - Councilmember Malouf made a motion to approve a draft lease agreement for privately-owned buildings on First Monday grounds with the additional language that construction must commence within twelve months of the lease date. Councilmember Moore seconded.

Mayor Pro Tem - Shawn Stewart: Approve

Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

14. CONSIDER ADOPTION OF ORDINANCE NO. 2016-15 ADOPTING FIRST MONDAY POLICY MANUAL – Councilmember Stewart made a motion to adopt Ordinance No. 2016-15 adopting First Monday Policy Manual. Councilmember Perkins seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

15. CONSIDER APPROVAL OF AN AMENDED AND RESTATED ECONOMIC DEVELOPMENT AGREEMENT PURSUANT TO CHAPTER 380 OF THE LOCAL GOVERNMENT CODE WITH C&E GROUP, INC., OR AN AFFILIATE OF THAT CORPORATION, TO SUPPORT THE CONSTRUCTION OF A HOTEL/CONFERENCE CENTER FACILITY - Councilmember Malouf made a motion to approve the Amended and Restated Economic Development Agreement with C&E Group, Inc. Councilmember Perkins seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

16. CONSIDER APPROVAL OF AMENDED PLAT OF THAT 6.192-ACRE TRACT LOCATED IN THE WM. SHERMAN SURVEY, A-761, ON THE NORTH I-20 SERVICE ROAD IMMEDIATELY TO THE WEST OF SPLASH KINGDOM, IN THE CITY OF CANTON, TEXAS, OWNED BY KINGDOM PERSPECTIVES GP LTD - Councilmember Perkins made a motion to approve the amended plat for Splash Kingdom Addition. Councilmember Stewart seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve  
Council Member - Nathan Moore: Approve

17. CONSIDER APPROVAL OF LEASE AGREEMENT FOR POHL PROPERTY LOCATED ON BLOCK 24, ORIGINAL TOWN, CANTON, TEXAS - Councilmember Moore made a motion to approve the lease agreement with Linda and Michael Pohl for property on Block 24 in the Original Town of Canton. Councilmember Stewart seconded.

Mayor Pro Tem - Shawn Stewart: Approve  
Council Member - Connie Odic: Absent  
Council Member - Cindy Malouf: Approve  
Council Member - Scott Perkins: Approve

Council Member - Nathan Moore: Approve

18. CONSIDER ADOPTION OF ORDINANCE NO. 2016-14 APPROVING MUNICIPAL MAINTENANCE AGREEMENT WITH TEXAS DEPARTMENT OF TRANSPORTATION – Councilmember Malouf made a motion to adopt Ordinance No. 2016-14. Councilmember Stewart seconded.

Mayor Pro Tem - Shawn Stewart: Approve

Council Member - Connie Odic: Absent

Council Member - Cindy Malouf: Approve

Council Member - Scott Perkins: Approve

Council Member - Nathan Moore: Approve

19. CONSIDER DESIGN, CONSTRUCTION AND FINANCING OF PROJECTS INCLUDING, BUT NOT LIMITED TO, STREETS AND UTILITIES, IMPROVEMENTS TO FIRST MONDAY GROUNDS, REPAINTING OF HISTORIC WATER TOWER, AND NEW CITY HALL – Andy Wolfe reported they were texturing the walls at the new City Hall. We hoped to move in by the end of August. The concrete at Trade Center IV would probably be poured next week. Councilmember Stewart asked if there was a way to create a walkway on Row 21 into the bathrooms from Trade Center IV. Mr. Wolfe said they planned to finish the Trade Center IV project by the end of August. He said they would put off the second pour on the Artist Row pavilion until after First Monday. The crew would mobilize next week to start work on painting the historic water tower. The project should be completed by the end of July. Councilmember Moore asked if lighting could be added to the tower if the project came in under budget. Councilmember Stewart said the Cherry Creek Park trail was being turned. It would run from the dam at the old lake to the concrete trail at the new park. His ultimate goal was to connect the two parks. Walt Lehmann reported forty streets with fog sealed with the \$180,000 allocated. That covered approximately 80% of the streets and would extend the life of the streets two to four years. The fog seal should be done every three to four years.

*Mayor Everett called a brief recess at 9:09 p.m.*

## EXECUTIVE SESSION

**In accordance with the authority contained in Sections 551.071 and 551.072 of the Open Meetings Law, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, Council will convene in closed or executive session to discuss the following matters.**

20. EXECUTIVE SESSION FOR CONSULTATION WITH ATTORNEY REGARDING EXISTING OR POTENTIAL LITIGATION (Section 551.071) – Council convened into Executive Session at 9:13 p.m.
21. EXECUTIVE SESSION FOR DELIBERATIONS/CONSULTATION WITH ATTORNEY REGARDING POTENTIAL PURCHASE/RECEIPT OR LEASE OF REAL PROPERTY (Section 551.072)
22. EXECUTIVE SESSION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE TO RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY CONCERNING PROPERTY GENERALLY LOCATED IN THE Q.C. NUGENT SURVEY,

ABSTRACT NO. 618 AND D. TOWNS SURVEY, ABSTRACT NO. 845 AND GENERALLY LOCATED AT 542 E. DALLAS, CANTON, TEXAS, AND COMMONLY REFERRED TO AS OLD MILL MARKETPLACE AND "THE MOUNTAIN"

**RETURN TO OPEN SESSION**

23. RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – Council reconvened into Open Session at 9:35 p.m.
24. ITEMS FOR FUTURE AGENDAS
25. ADJOURN – There being no further business to discuss, the meeting was adjourned at 9:36 p.m.